

file S. 495

S. 495, The Watergate Reform Act
and Financial Disclosure Legislation

Among the various financial disclosure proposals under consideration in the House is Title III of S. 495, "The Watergate Reorganization and Reform Act of 1976," recently passed by the Senate. The provisions of this Title would pose serious problems for the intelligence activities of the United States.

Relevant Provisions: Section 302 of S. 495 contains a provision requiring Federal employees who are compensated at or over the grade of GS-16 salary level to file financial statements. These statements are required to be filed with the Comptroller General under Section 304(a)(1). However, paragraph (a)(4) of Section 304 grants the President authority to exempt any individual in certain intelligence agencies, including the Central Intelligence Agency, from the requirement of filing a report with the Comptroller General if the President finds that public disclosure "... would reveal the identity of an undercover agent of the Federal government." In such cases, the statements of exempted employees are to be filed with the head of the agency involved.

First Problem: Section 305(b) of S. 495 is inconsistent with and would therefore vitiate the partial exemption for undercover personnel in Section 304(a)(4). This provision would require the head of each agency to submit annually to the Comptroller General a complete list of individuals required to file a report under Section 302. On its face, this would include those individuals exempted from filing reports with the Comptroller General under Section 304(a)(4). Thus, 305(b) would require disclosure of the identities of the undercover intelligence personnel which Section 304(a)(4) is designed to protect. If identities of undercover intelligence personnel are to be protected, the lists required under Section 305(b) should include only those individuals who must file with the Comptroller General under Section 304.

Second Problem: The partial exemption provided in Section 304 (a)(4) is viewed as what is minimally required for the successful conduct of U. S. intelligence activity. It is necessary to protect from disclosure the fact that certain employees are associated with intelligence agencies or the Government. However, the exemption does not recognize certain other security considerations of equal and broad significance.

For example, many persons in the Government, especially intelligence personnel, have access to highly sensitive information which would be extremely valuable to foreign intelligence services and for which foreign services are prepared to offer large sums of money. Attempts have been made to recruit such employees. The disclosure of the financial status of such personnel would clearly assist the intelligence services of other countries in identifying employees for possible recruitment approach. This consideration applies to all personnel in national security-related areas whether or not

they are undercover intelligence personnel. As concerns the CIA, Congress has recognized that the Agency's ability to accomplish its unique mission could be jeopardized by the public disclosure of the names and certain other information concerning any of its employees. Accordingly, section 7 (now section 6) of the CIA Act of 1949 (50 U.S.C. 403g) states as follows:

"In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of any...law which require(s) the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency...."

Thus, the partial exemption provided in S. 495 would conflict with Section 6 of this Act. It is recommended that the following language be inserted after the words "an undercover agent of the Federal government" in Section 304(a)(4):

"...or otherwise jeopardize the intelligence activities of such agencies or contravene existing law with respect to the disclosure of information contained in such reports."